



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2013-0746; FRL-9912-95-Region 4]

Approval and Promulgation of Implementation Plans; Florida:

Removal of Sulfur Storage and Handling Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) is proposing to approve a revision to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP), on April 5, 2012. The revision modifies Florida's SIP to remove two state rules relating to new and existing sulfur storage and handling facilities because they are no longer necessary. EPA has preliminarily determined that Florida's April 5, 2012, SIP revision regarding sulfur storage and handling facilities is approvable because it is consistent with the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2013-0746, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-RDS@epa.gov.

3. *Fax:* (404) 562-9019.
4. *Mail:* “EPA-R04-OAR-2013-0746”-Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2013-0746. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Huey, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9104. Mr. Huey can also be reached via electronic

mail at huey.joel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed revision requests that EPA remove two state rules – Rule 62-212.600, F.A.C., “Sulfur Storage and Handling Facilities” and Rule 62-296.411, F.A.C., “Sulfur Storage and Handling Facilities” – from Florida’s SIP. Florida repealed these rules on February 16, 2012.

The requirements of Rule 62-212.600, F.A.C., apply to proposed new or modified sulfur storage and handling facilities. The rule states that the owner or operator of any proposed new or modified sulfur storage and handling facility that is to be located within five kilometers of either a particulate matter (PM) air quality maintenance area or a prevention of significant deterioration (PSD) Class I area shall provide FDEP with an analysis of the probable particulate matter ambient air quality impacts that could result from the operation of the facility. Additionally, the owner or operator shall provide FDEP with an analysis of the probable annual and maximum monthly sulfur deposition rates that could occur as a result of the operation of the facility. The owner or operator shall conduct post-construction air quality and deposition monitoring of sulfur particulate emissions from the facility for two years from the date of issuance of the initial air operation permit for the facility, and, through the permitting process, shall determine the period of time, if any, such monitoring must be continued. The data collected would then be provided to FDEP as specified in the permit. Florida states that the “General Preconstruction Review Requirements” and “Prevention of Significant Deterioration (PSD)” provisions of the Rules 62-

212.300 and 62-212.400, F.A.C., respectively, can be used instead of Rule 62-212.600, F.A.C to prevent PM emissions that would interfere with attainment and maintenance of national ambient air quality standards (NAAQS), prevention of significant deterioration of air quality, or protection of visibility.

Rule 62-296.411, F.A.C., states that no person shall cause, suffer, or allow elemental sulfur to be stored, handled, or transported within the State in crushed bulk or slate form or in any form other than standard sulfur pellets or in molten form, except that sulfur may be transferred within the boundaries of a single facility in other forms. Facilities using standard sulfur pellets or molten sulfur, or sulfur vating facilities, may be permitted only in conformance with the practices identified in the rule. Florida states that the “General Pollutant Emission Limiting Standards” of Rule 62-296.320, F.A.C., can be applied instead of Rule 62-296.411, F.A.C. to adequately control PM emissions from dry material handling operations such as those associated with sulfur storage and handling facilities.

With removal of the above two rules from the SIP, Florida’s PM requirements under the SIP for new and existing sulfur storage and handling facilities would align with the PM requirements for other, similar dry material handling sources in the State. At the time that Florida promulgated its sulfur storage and handling rules, the State was concerned that total suspended particulate matter levels in Florida would be negatively impacted by increased sulfur handling and storage operations to such an extent as to warrant additional facility-specific work practices and monitoring. However, the anticipated increase in sulfur handling and storage operations did not occur, and only 11 facilities are subject to Rule 62-212.300, F.A.C. and Rule 62-212.400, F.A.C. EPA approved these two state rules into the SIP on December 24, 1985, at

II. Analysis of the State's Submittal

EPA's primary consideration for determining the approvability of Florida's request to remove the existing sulfur storage and handling facilities rules, 62-212.600, F.A.C. and 62-296.411, F.A.C., from the SIP is whether these requested actions comply with section 110(l) of the CAA. Under Section 110(l), EPA cannot approve a SIP revision if that revision would interfere with any applicable requirement regarding attainment, reasonable further progress (RFP), or any other applicable requirement established in the CAA. EPA will approve a SIP revision that removes or modifies control measures in the SIP only after the state makes a "noninterference" demonstration that such a removal or modification will not interfere with RFP, attainment or maintenance of any NAAQS, or any other CAA requirement. As such, Florida must make a demonstration of noninterference in order to remove the sulfur storage and handling facilities requirements from its SIP.

Because actual emissions are not expected to change, there will be no impact on PSD increments, RFP, visibility, attainment or maintenance of any NAAQS, or any other applicable CAA requirement. Particulate matter, in the form of coarse (PM₁₀) and fine (PM_{2.5}) PM, is the pollutant related to the SIP revision. On January 15, 2013 (78 FR 3086), EPA established an annual primary PM_{2.5} NAAQS at 12.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations. At that time, EPA retained the 2006 24-hour PM_{2.5} NAAQS at 35 µg/m³ based on a 3-year average of the 98th percentile of 24-hour

¹ EPA's December 24, 1985, action incorporated the state sulfur storage and handling rules at 17-2.540, F.A.C. and 17-2.600, F.A.C. into Florida's SIP. Florida later reorganized its administrative code and renumbered these rules as 62-212.600, F.A.C. and 62-296.411, F.A.C., respectively. EPA updated the Florida SIP on June 16, 1999 (64 FR 32346), to make it consistent with the revised numbering system.

concentrations.

All areas in the State are currently designated as attainment for the PM₁₀ and PM_{2.5} NAAQS. For example, Table 1 identifies the PM_{2.5} annual and 24-hour design values for the counties where facilities subject to the repealed sulfur storage and handling rules are located and demonstrates that these design values are well below the respective NAAQS.

Table 1. PM_{2.5} Design Values

County	2008-2010	2009-2011	2010-2012	2011-2013
Annual Design Value				
Hillsborough	8.0	7.8	7.6	7.1
Polk	7.7	7.5	7.4	7.0
24-hour Design Value				
Hillsborough	16	17	16	16
Polk	15	15	16	15

There are no emissions reductions of carbon monoxide (CO), lead, nitrogen oxides, ozone, or sulfur dioxide (SO₂) attributable to the sulfur storage and handling facilities requirements. As a result, the removal of these requirements will not interfere with attainment of these NAAQS.

A comparison of PM emissions from sulfur handling and storage emission units at each subject facility with PM emissions from the entire facility demonstrates that sulfur PM emissions from the subject units account for approximately zero to nine percent of total PM emissions at most facilities. Of the four facilities at which all facility PM emissions are entirely due to sulfur PM emissions from sulfur handling and storage emissions units, the amount of sulfur PM emitted ranges from approximately one to six tons per year per facility. See Table 2.

Table 2. Comparison of PM Emissions from Sulfur Handling and Storage Emission Units (EU) at Each Facility versus PM Emissions from the Entire Facility²

² These data can be accessed at www.regulations.gov using Docket ID No. EPA-R04-OAR-2013-0746.

Facility	Facility ID	Sulfur EU PM (tons/year)	All Facility EU PM (tons/year)	Sulfur EU PM % of All Facility EU PM	Potential (P) or 2010 Actual (A) PM Emissions
WHITE SPRS AG CHEM-SR/SC CMPLX	470002	5.6	2084.8	0.3	P
CF INDUSTRIES- PLANT CITY PHOSP COMPLEX	570005	0.6	59.4	1.0	A
MOSAIC FERTILIZER- RIVERVIEW FACILITY	570008	0.6	27.9	2.2	A
GULF SULPHUR SERVICES, HOOKER'S PT SITE	570082	1.0	1.0	100.0	P
GULF SULPHUR SERVICES, PORT SUTTON SITE	570100	6.0	6.0	100.0	P
PASCO TERMINALS, INC.	570455	4.5	4.5	100.0	P
MARTIN GAS SALES, INC.	570477	1.5	1.5	100.0	P
MOSAIC FERTILIZER, LLC - BARTOW FACILITY	1050046	4.4	57.0	7.7	A
MOSAIC FERTILIZER - SOUTH PIERCE FACILITY	1050055	0.4	99.6	0.4	P
MOSAIC FERTILIZER - NEW WALES FACILITY	1050059	12.0	141.3	8.5	A
QUANTUM ST REGIS TREATING & JAY GAS	1130005	0.0	14.7	0.0	A
Total		36.6	2497.7	1.5	

Of the 11 facilities that are subject to the sulfur handling and storage emission rules, four will experience a relaxation in the opacity limit from 10 or 15 percent to 20 percent if 62-212.600, F.A.C. and 62-296.411, F.A.C. are removed from the SIP, but emissions are not expected to increase because the underlying work practices will remain unchanged. The sulfur particulate emitting emissions units at these four facilities are approximately less than one ton per year, and a majority of the visible emissions tests conducted in 2010-11 for sulfur storage and handling units showed no visible emissions (i.e., zero percent opacity).

Furthermore, several existing state rules incorporated into Florida's SIP can be applied in lieu of Rules 62-212.600, F.A.C. and 62-296.411, F.A.C. to address sulfur PM emissions from sulfur storage and handling emissions units at these facilities. Rules 62-212.300 and 62-212.400, F.A.C., respectively, can be applied instead of the sulfur-specific requirements of paragraph 62-212.600(2)(a), F.A.C., to evaluate potential particulate matter ambient air quality impacts. The sulfur deposition analysis required by paragraph 62-212.600(2)(b), F.A.C., is unnecessary because there is no standard to compare the results with to demonstrate compliance. Rule 62-296.411, F.A.C., the "General Pollutant Emission Limiting Standards" of Rule 62-296.320, F.A.C., and, for some emissions units, the PM Reasonably Available Control Technology requirements of Rule 62-296.711, F.A.C., can be applied to control the sulfur PM emissions from sulfur storage and handling emissions units at these facilities. Rule 62-296.711, F.A.C. generally imposes a five percent opacity limit for existing sulfur handling, sizing, screening, crushing, and grinding operations in former total suspended particulate non-attainment areas or within 50 kilometers of such former areas except where an emissions unit has received a Best Available Retrofit Technology (BACT) determination or the emissions are insignificant enough to be

exempted under Rule 62-296.700(2), F.A.C. The control techniques and work practice standards found in Rule 62-296.411, F.A.C., to control unconfined emissions of particulate matter can also be required by paragraph 62-296.320(4)(c), F.A.C., which prohibits the emission of unconfined particulate matter without taking reasonable precautions to prevent such emissions.

For the reasons discussed above, EPA has determined that removal of the sulfur storage and handling facilities rules will not interfere with attainment or maintenance of the NAAQS in surrounding states or interfere with any other requirement identified in section 110(l).

III. Proposed Action

EPA is proposing to approve Florida's April 5, 2012, SIP revision to remove state Rule 62-212.600, F.A.C. and Rule 62-296.411, F.A.C., related to sulfur storage and handling facilities, from the Florida SIP because the Agency has preliminarily determined that this revision is consistent with section 110(l) of the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian

country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Particulate matter, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 16, 2014.

Heather McTeer Toney,
Regional Administrator,
Region 4.